

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 288 - HB 303

March 8, 2013

SUMMARY OF BILL: Deletes the requirement that the Commissioner of the Department of Revenue (DOR) discloses to the Attorney General and Reporter, upon request, information obtained by the Commissioner that is relevant to the enforcement of the Tennessee Tobacco Manufacturers' Escrow Fund Act of 1999. Deletes the authorization for the Attorney General and Reporter to disclose such information that may otherwise be confidential in discharge of the duty to enforce or defend the Act, or in the course of any litigation, arbitration, or proceeding related to the Act or the Tobacco Master Settlement Agreement.

ESTIMATED FISCAL IMPACT:

Other Fiscal Impact – According to the Attorney General, deleting the requirement for the Commissioner to disclose relevant and otherwise confidential information would inhibit the state to diligently enforce the Tennessee Manufacturers' Escrow Fund Act and would place future payments under the Master Settlement Agreement in jeopardy. The exact amount of future payments that could be jeopardized cannot be determined with reasonable certainty.


Assumptions:

- Under the Tennessee Tobacco Manufacturers' Escrow Fund Act, pursuant to Tenn. Code Ann. § 47-31-103(a), a tobacco product manufacturer selling cigarettes to consumers in Tennessee is required to do one of the following: become a participating member of the Master Settlement Agreement (MSA) and perform its financial obligations under MSA; or place into a qualified escrow fund specified amounts of money per unit of cigarettes sold.
- MSA is a multistate settlement with major tobacco companies, under which the state of Tennessee will receive payments of up to \$4,800,000,000 through the year 2025, with additional payments into perpetuity. MSA also places significant restrictions on tobacco advertising and marketing.
- The relevant and otherwise confidential information is disclosed by the Commissioner to the Attorney General's office on at least a monthly basis.
- According to the Attorney General, deleting the provision requiring the Commissioner to disclose relevant and confidential information to the Attorney General's office would inhibit the ability of the state to diligently enforce the Tennessee Tobacco

Manufacturers' Escrow Fund Act. This would, in turn, put future payments under the Master Settlement Agreement (MSA) in jeopardy. Such payments average approximately \$140,000,000 per year. The exact amount of future payments placed into jeopardy cannot be estimated with reasonable certainty.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

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